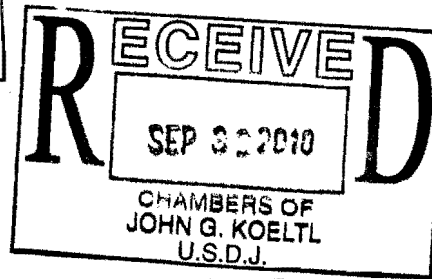


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The parties should provide a status report by January 4, 2011. No motions are to be made without a prior court conference.

September 30, 2010

VIA FACSIMILE *So ordered.*

Hon. John G. Koeltl *9/30/10*
United States District Court for the Southern District of New York
500 Pearl Street
New York, New York 10007

Re: Atlantis Rehabilitation and Residential Health Care Facility v. Paterson (10-cv-3979)

Dear Judge Koeltl:

In accordance with this Court's June 30, 2010 order, we are writing on behalf of both plaintiffs and defendants to report on the status of the above-mentioned action.

As the Court may recall, pursuant to a joint application of the parties, so-ordered on June 30, 2010, three things had to occur before plaintiffs could move for a preliminary injunction and trigger defendants' time to respond to the Complaint: (a) CMS approval; (b) the adoption of a budget by the State of New York for FY2010-11; and (c) approval of reimbursement rates by the Director of the Budget. As of this date, the only one which has occurred is that the State of New York has adopted a budget for FY2010-11.

We also note that the new Medicaid reimbursement rates for residential health care facilities (the "Rates") that were proposed by the New York State Department of Health ("DOH") on January 13, 2010 have not yet received final approval and therefore have not taken effect. On September 8, 2010, DOH released an informal update to the Rates, which provided residential health care facilities with draft revised rates. The draft revised rates were provided for informational purposes only, since they had not been approved by CMS or the New York State Division of the Budget ("DOB"), and therefore had not taken effect.

If CMS approves the State Plan Amendment concerning the Rates, they will be submitted to DOB for approval. If approved by DOB, DOH will publish the Rates and the facilities will have 120 days to appeal them. At that point, if plaintiffs' objections have not been addressed,

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Hon. John G. Koeltl
September 30, 2010
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they will seek leave to amend their complaint to make clear that they are challenging the new rates.¹

Respectfully,



Fran M. Jacobs

cc: Scott J. Spiegelman, Assistant Attorney General (by e-mail)
Jerome T. Levy, Esq. (by e-mail)

¹ Plaintiffs amended their complaint once as of right to add another plaintiff in August. Accordingly, plaintiffs can no longer amend as of right and will need to seek leave to amend again.